(1948) Department.

48 SERIES.

G.O. No. 524

Dated 1948

[Despatch Abstract.]

MADRAS LEGISLATURE : MEMBERS : TAKING UP CONTRACTS WITH GOVERNMENT OR LOCAL BODY : LEGISLATION DISQUALIFYING THEM : PAPERS : RECORDED.

Back Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department,	Date.
Ms	~~1570~~	~~Pub~~ Edn	21 3 50				

Further Papers.

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PUBLIC (ELECTIONS) DEPARTMENT.

Note for the Cabinet.

ELECTIONS - Members of the Legislature - Contracts in Government Departments - Permission.

Sri K. Veeranna Pandal, M.L.A., desires to be informed whether Members of the Legislative Assembly can take up Government contracts in Public Works Department, Revenue and Highways Department. This question does not seem to have been considered below.

2. The only disqualifications mentioned in the Government of India Act, 1935, as adapted by the India (Provisional Constitutional) Order, 1947 in regard to members of the Legislature are those specified in section 69 (1) (a), namely, a person shall be disqualified for being chosen as, and for being, a member of a Provincial Legislative Assembly or Legislative Council if he holds any office or profit under the Crown in India, other than an office declared by Act of the Provincial Legislature not to disqualify its holder. According to this section a member of the Legislature who is a registered contractor taking up contracts in the Public Works Department or Highways Department cannot be said to hold an office or profit under the Crown in India.

3. The Legal Secretary while agreeing with the views of this Department has remarked that the only disqualification mentioned in the Government of India Act in regard to members of the Legislature are those specified in section 69, which does not impose any bar on members of the Legislature taking up contracts and that he has not been able so far to trace any other provision of law disqualifying members of the Legislature from holding contracts.

4. He has pointed out that in England specific and definite statutes have been enacted by Parliament disqualifying a member of the House of Commons who directly or indirectly holds for his own use or benefit, in the whole or in part, any contract agreement or commission with any person or persons for or on account of the public service.

5. Though there is no similar provision of law here so far as members of the Legislature are concerned, the Legal Secretary has said that it does not seem very desirable on grounds of public policy that a member of a Provincial Legislature should be ~~interested~~ interested in contracts of that Government. As a legislator, it is his duty to be the "watch-dog" of the people and the public finances. As a contractor it will be his interest to see that the expenditure is not too carefully scrutinized. Therefore, for a legislator to tender or compete for a Government contract or to accept one would be to place himself in a position where duty conflicts with interest. He has further stated that it is unnecessary to enlarge on the dangers that would be set the public exchequer, if, for instance, a majority of legislators decided to become contractors under Government and that there is an obvious impropriety in the situation. He is of the view that the British Statutory provision is one that may well be adopted. He therefore suggests that, as the matter is one of considerable importance, a decision may be taken in the Council of Ministers.

6. Finance have agreed with the views of the Legal Secretary.

7. Honourable the Premier has directed that the case may be placed before the Council of Ministers.

8. The points for orders are:

(a) Whether members of the Legislature can take up Government contracts; and

(b) if the answer is in the negative whether any legislation should be undertaken disqualifying members of the Legislature taking up Government Contracts on the lines of the British Statutory Provision.

O.P. RAMASWAMY REDDY
~~Chief Minister~~.
Premier.